

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Modernizing the FCC Form 477)	WC Docket No. 11-10
Data Program)	
)	
Development of Nationwide)	WC Docket No. 07-38
Broadband Data to Evaluate)	
Reasonable and Timely Deployment)	
of Advanced Services to All)	
Americans, Improvement of)	
Wireless Broadband Subscribership)	
Data, and Development of Data on)	
Interconnected Voice over Internet)	
Protocol (VoIP) Subscribership)	
)	
Service Quality, Customer)	WC Docket No. 08-190
Satisfaction, Infrastructure and)	
Operating Data Gathering)	
)	
Review of Wireline Competition)	WC Docket No. 10-132
Bureau Data Practices)	
)	

**Reply Comments of
Communications Workers of America**

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Dated: April 14, 2011

The Communications Workers of America (“CWA”) submits these Reply Comments in response to comments made in the Commission’s proceeding regarding modernizing its Form 477 Data Program. CWA is a labor organization representing 700,000 workers in communications, media, airlines, manufacturing, and public service who have an interest in this proceeding as workers and as consumers.

As we stated in our initial comments, accurate data collection is necessary for the Commission to continue its fact-based, data-driven decision making to protect the public interest in universal, quality communications services. CWA agrees with the Commission and other commentators that Form 477 provides “a set of data of uniform quality and reliability superior to other publicly available information sources.”¹ In these Reply Comments, CWA will focus on the need to restore and update service quality and customer satisfaction data reporting from all providers, as well as other issues related to broadband data reporting.

Service Quality. Multiple commentators concur with CWA that service quality data, especially the kind formerly reported as part of the Automated Reporting Management Information System (ARMIS) reports, are invaluable to consumers, the Commission, state regulatory agencies and other interested parties. Unfortunately this data is currently not available as a result of the Commission’s 2008 *Service Quality Forbearance Order* and inaction on the concurrently issued *Service Quality NPRM*. It has been three years since the Commission tentatively concluded in the *Service Quality*

¹ In the Matter of Modernizing the FCC Form 477 Data Program, Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership, Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, Review of Wireline Competition Bureau Data Practices, *Notice of Proposed Rulemaking*, WC Dockets Nos. 11-10, 07-38, 08-190, 10-132; Feb. 8, 2011, para. 2 (“*Data Improvement NPRM*”) quoting: FCC *Local Competition and Broadband Reporting*, CC Docket No. 99-301, Report and Order, para. 14 (2000) (“*2000 Data Gathering Order*”)

NPRM that it should impose service quality reporting requirements on all industry participants.² It is long past time for the Commission to adopt industry-wide service quality and customer satisfaction data requirements in order to fulfill its statutory mandates to promote competition and ensure that all consumers have access to quality telecommunications and advanced services.

CWA agrees with the Commission's tentative conclusion in the 2008 *Service Quality NPRM* that service quality data should be collected from all service providers, without exemptions.³ As the Commission tentatively concluded in that proceeding, collecting service quality and customer satisfaction data is "useful to consumers to help them make informed choices in a competitive market, but only if available from the entire relevant industry."⁴ Moreover, multiple state utility commissions and consumer advocates, including the New Jersey Division of Rate Counsel, Free Press, the California Public Utilities Commission (PUC) and the Pennsylvania Public Utility Commission, all joined with CWA in this proceeding to support the need for data collection by all service providers.⁵

² In the Matter of Petition of Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, Petition of Qwest Corporation for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, Petition of Embarq Local Operating Companies for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, Petition of for Forbearance Frontier and Citizens ILECs Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, Petition of Verizon for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, *Memorandum Opinion and Order and Notice of Proposed Rulemaking*, WC Dockets Nos. 08-190, 07-139, 07-204, 07-273; Sept. 6, 2008 (rel), para 12 ("Service Quality Data Order").

³ *Id.* para. 35. ("We also recognize... that service quality and customer satisfaction data contained in ARMIS Reports 43-05 and 43-06 might be useful to consumers and help them make informed choices in a competitive market, but only if available from the entire relevant industry. We thus tentatively conclude that we should collect this type of information...")

⁴ *Id.*

⁵ See comments on FCC 2011 *Data Improvement NPRM* by: the New Jersey Division of Rate Counsel, page 7; Free Press, page 9; the California Public Utilities Commission, page 12; and the Pennsylvania Utility Commission, page 2.

Some commentators have erroneously argued that competition in these markets obviates the necessity for the Commission to collect service quality data. As CWA said in our earlier comments, competitive markets function most efficiently when consumers have access to all relevant information. Further, service quality and customer service data are needed to determine whether these markets are in fact competitive. As the Michigan Public Service Commission states: “It is important the FCC have data available in order to compare quality of service and customer satisfaction across platform types to determine the extent to which different voice technologies (landline, mobile wireless, interconnected VoIP) act as true competitive alternatives to one another.”⁶

Some commentators erroneously claim that service quality data is already available from third-party sources, and the Commission therefore does not need to collect service quality information on Form 477. In fact, there is no other national database that collects uniform data across states, companies, and over time regarding trouble reports, out-of-service reports, installation intervals, the time it takes to answer customers’ calls, and customer complaints. CWA agrees with the California Public Utilities Commission that third-party data can be used to verify the Commission’s service quality data, but it is inappropriate to use as the primary source of data.⁷ Only the Commission can independently validate its sources of data and ensure that the metrics used are to the specifications that the Commission requires. The Commission also has access to valuable data that third-parties are unable to obtain. As the Michigan Public Service Commission commented in this proceeding: “Empowering customers with reliable, verifiable data from a single source ensures that they are better able to take advantage of

⁶ *Comments of the Michigan Public Service Commission, Data Improvement NPRM*, page 2.

⁷ *Comments of the California Public Utilities Commission, Data Improvement NPRM*, page 3.

a competitive market, and in the event that certain customers do not have a competitive market, ensures that those customers still are being provided quality communications services.”⁸

CWA reiterates that the Commission’s failure to update its service quality data reporting program has already hampered our efforts to validate service quality problems experienced by California customers. In a Feb. 4, 2011 public hearing⁹ held by state Senator Alex Padilla in southern California, California customers as well as CWA frontline technicians reported serious network problems as a result of inadequate network maintenance and staffing shortages. Yet, CWA was unable to provide statistical evidence on trouble reporting, service outages, and repair intervals because the Commission had eliminated its ARMIS service quality reporting program in 2010. The California Public Utilities Commission does not require public reporting of such data.

CWA joins the California Public Utilities Commission in recommending the collection of ARMIS service quality data as a separate report to ensure the continued public reporting of that data. California PUC states: “Carrier-specific Form 477 data is treated as confidential whereas ARMIS carrier-specific information is generally available to the public, which is one of the compelling rationales for its collection and publication. We therefore support an extension of the same hybrid process as is used today. That is, all facilities-based telecommunications carriers and broadband providers would file with

⁸ *Comments of the Michigan Public Service Commission, Data Improvement NPRM*, page 3.

⁹ California State Senate, Energy, Utilities and Communications Committee - Informational Hearing: Telephone Service Outages and Infrastructure Needs. Agenda can be found at: http://www.sen.ca.gov/ftp/SEN/COMMITTEE/STANDING/ENERGY/_home/020411/Agenda020411.pdf and background information at: http://www.sen.ca.gov/ftp/SEN/COMMITTEE/STANDING/ENERGY/_home/020411/Background_020411.pdf. Additional information: Kimberly Pierceall, The Press-Enterprise “Storm-related phone outages sign network needs fix, groups say” http://www.pe.com/localnews/stories/PE_News_Local_D_telephone04.26f7d84.html

the FCC the data as recommended... to be compiled in ARMIS-type reports.”¹⁰ The model is already in place for the Commission to collect this data in this way, and CWA believes reinstating ARMIS reporting requirements is the easiest and most efficient way to collect and make publicly available ARMIS service quality data. If the Commission prefers to collect that data on Form 477, CWA joins the Michigan Public Service Commission (MPSC) in recommending the Commission ensure that all service quality data formerly collected on the ARMIS reports collected on Form 477 be made available to the public through a user-friendly web-based interface. MPSC states:

The data collected as part of ARMIS reports 43-05 and 43-06 was available to the public, however if service quality and customer satisfaction data is added to the Form 477 reporting requirements, as the MPSC supports, it will not be generally available to the public. The MPSC urges the FCC to make a subset of service quality and customer satisfaction data public so that customers can use it to make informed choices regarding telecommunications services. Reliable information is essential in order for customers to make informed choices—a necessary component for a well functioning market. The MPSC would prefer to see a publicly accessible online database showing each provider’s scores on basic service quality and customer satisfaction metrics, including the functionality to simultaneously compare different providers’ scores.¹¹

Collecting and public reporting of service quality data is essential for consumers, policymakers, and interested groups to evaluate and compare service.

Broadband Data Collection. CWA supports the Commission in its effort to collect Form 477 data on a more granular level. Some commentators in this proceeding have incorrectly argued that requiring data at the census block level, rather than the census tract, would impose additional undue burdens on the companies reporting. But census block level data is already required by the National Telecommunications and

¹⁰ *Comments of the California Public Utilities Commission, Data Improvement NPRM*, page 14.

¹¹ *Comments of the Michigan Public Service Commission*, WC Docket Nos. 11-10, 07-38, 08-190, 10-132, page 2-3.

Information Administration (NTIA) through the State Broadband Data & Development Program (SBDD). Therefore, there is no additional burden placed on carriers since census block granularity is already required by another agency. Further, this would harmonize data sets between the Commission and NTIA, allowing more opportunities to cross-reference data between the two. CWA also notes that the Commission already provides an Application Program Interface (API) to Form 477 filers to segregate data at the census tract level, and the Commission can provide an updated API that would accomplish the same task at the census block level of reporting. This would also place no additional burdens on current filers, and give the Commission a more detailed picture of the various markets under its purview. As we previously stated, if any service provider finds it easier or more efficient to report its data to the Commission at the address level, the Commission should be able to accept and aggregate that data, and implement adequate privacy protection for that information.

Speed Tiers. There is broad consensus among commentators in this proceeding that the Commission should harmonize the broadband speed tiers collected on Form 477 with the speed tiers collected by the National Telecommunications and Information Administration (NTIA) through the State Broadband Data & Development Program (SBDD). A uniform set of broadband speed data will allow consumers, interested stakeholders and the Commission to cross-reference data between one agency and the other. In selecting the break points during the harmonization process, the Commission should include speeds related to the various benchmarks required by USF or CAF funding, and other speeds significant to the Commission's operations.

Reporting Actual Broadband Speeds. CWA has long-advocated for broadband providers to report “actual” speed data, rather than advertized or “up to” speeds to the Commission. Actual speeds are invaluable as the Commission studies the extent of broadband deployment to rural and low-density population areas, and urban and suburban areas. The Commission must have an accurate view of the typical broadband user experience if it is to successfully determine whether minimum standards are being met throughout the United States.

Speed matters on the Internet, enabling two-way video-rich applications that improve education, health care, public safety, and entertainment. Yet, according to CWA’s online speed test, most U.S. consumers’ Internet connections are too slow to enable such applications, and rank the U.S. as 25th in the world in average Internet connection speeds. CWA’s online speed test recorded an average Internet speed of 3.0 megabits per second (mbps) download and 595 kbps upload in 2010, and found that a full 49 percent of those who took our speed test did not meet the FCC’s minimum broadband standard of 4 mbps download. Moreover, CWA’s annual Speed Matters reports indicates little progress has been made since the first report was first issued in 2007.¹²

CWA noted in our comments that the Commission has a voluntary Web-based broadband speed test on its own Web site, as well as a partnership in place with SamKnows to collect actual broadband speed data from users scientifically. The Commission should set minimum reporting requirements for service providers, along with a set of best practices, for service providers to report actual broadband speeds on Form 477. Comments in this proceeding have argued that there is no perfect way to

¹² Communications Workers of America: *2010 Report on Internet Speeds in All 50 States*. Found at: http://cwa.3cdn.net/299ed94e144d5adeb1_mlblqoxe9.pdf

determine actual broadband speeds throughout a network, but the Commission has shown that there are accurate and responsible methods for measuring actual speeds.

Improvements can be made over time as they become available, but the capabilities exist today for service providers to report this information. CWA is joined by Free Press and the New Jersey Division of Rate Counsel in recommending actual broadband speed reporting.

Price Data. In our comments, CWA agreed with the Commission that price data is one important aspect of measuring the availability of broadband,¹³ and noted that other commentators have historically supported collecting pricing data as well.¹⁴ The New Jersey Division of Rate Counsel refers to pricing data information as “essential to inform policymaking.”¹⁵ The Massachusetts Department of Telecommunications and Cable notes that “pricing information is essential in order to make an appropriate affordability and a functional availability analysis,” and “the analysis of pricing data is fundamental to the Commission’s ability to determine whether nominally competitive providers in fact have comparable offerings in the market.”¹⁶ Some commentators argue against collecting pricing data, saying that accurately collecting price data would be impossible because various promotions make it too complicated, or that it is unnecessary because the data is

¹³ In the Matter of Modernizing the FCC Form 477 Data Program, Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership, Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering and Review of Wireline Competition Bureau Data Practices, *Notice of Proposed Rulemaking*, WC Dockets Nos. 11-10, 07-38, 08-190, 10-132; Feb. 8, 2010, para. 34 (“*Data Improvement NPRM*”).

¹⁴ See, e.g., Comment of Consumer Federation of America et al. *In the Matter of Deployment of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership*, WC Docket No. 07-38, Sept. 2, 2008, at 4.

¹⁵ Comments of the New Jersey Division of Rate Council, *Data Improvement NPRM*, page 8.

¹⁶ Comments of the Massachusetts Department of Telecommunications and Cable, *Data Improvement NPRM*, page 5.

readily available on corporate websites. CWA argues that if pricing data is available on a company's website, there should be no additional burden in reporting that information directly on Form 477. Further, to get accurate pricing data for services the Commission should collect the price of standalone service as well as bundled service options. This would eliminate potential complications collecting pricing data and allow for "apples-to-apples" comparisons between providers of identical services.

CWA reiterates that the Commission, service providers, consumers and interested stakeholders all benefit from a public, uniform set of data, collected over time. Because data collection is so important to good policy making and to help consumers make informed choices, expanding data collection requirements on Form 477 does not in any way violate the Paperwork Reduction Act. More important, reinstating service quality data reporting requirements by all telecommunications and broadband providers will provide the Commission, consumers, other federal and state policymakers, and interested parties the tools necessary effectively to protect consumers, promote competition and advance the public interest.

Respectfully Submitted,

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April 14, 2011